

(Del. Rev. 12/98)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Jacqueline D. Berry

(Name of Plaintiff or Plaintiffs)

v.

CIVIL ACTION No. 06-217

State of DE Division of
Child Support

(Name of Defendant or Defendants)

COMPLAINT UNDER TITLE VII

OF THE CIVIL RIGHTS ACT OF 1964

1. This action is brought pursuant to *Title VII of the Civil Rights Act of 1964*, as amended, for employment discrimination. Jurisdiction exists by virtue of 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff resides at

5018 OAK RASTURK LANE

(Street Address)

Charlotte Mecklenburg NC 28269

(City)

(County)

(State)

(Zip Code)

302 399-8613

(Area Code) (Phone Number)

3. Defendant resides at, or its business is located at

P.O. Box 904

(Street Address)

New Castle NC DE 19720

(City)

(County)

(State)

(Zip Code)

4.

The discriminatory conduct occurred in connection with plaintiff's employment at, or application to be employed at, defendant's DE Division of Child Support place of business

(Defendant's Name)

located at

P.O. Box 904

(Street Address)

New Castle NC DE 19720

(City)

(County)

(State)

(Zip Code)

5. The alleged discriminatory acts occurred on 1 March 2004
(Day) (Month) (Year)

6. The alleged discriminatory practice ☒ is ☐ is not continuing.

7. Plaintiff filed charges with the Department of Labor of the State of Delaware,

US Equal Opportunity Commission (Street Address) Phila District Office (City)
21 So. 5th Suite 400 Phila Pa (State) (Zip Code) 19106-0255, regarding
(County) (State) (Zip Code)
defendant's alleged discriminatory conduct on 1 March 2004.
(Day) (Month) (Year)

8. Plaintiff filed charges with the Equal Employment opportunity Commission of the United States regarding defendant's alleged discriminatory conduct on: 12 January 2005.
(Day) (Month) (Year)

9. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to-Sue letter which was received by plaintiff on: 2 January 2006.
(Day) (Month) (Year)

(NOTE: ATTACH NOTICE-OF-RIGHT-TO-SUE LETTER TO THIS COMPLAINT.)

10. The alleged discriminatory acts, in this suit, concern:

- A. ☐ Failure to employ plaintiff.
- B. ☒ Termination of plaintiff's employment.
- C. ☒ Failure to promote plaintiff.
- D. ☒ Other acts (please specify below)

Title VII of the Civil Rights Act
American with Disability Act

Equal Pay Act

Retaliation and discrimination with Race

11. Defendant's conduct is discriminatory with respect to the following:

- A. ☒ Plaintiff's race
- B. ☒ Plaintiff's color
- C. ☐ Plaintiff's sex
- D. ☐ Plaintiff's religion
- E. ☐ Plaintiff's national origin

12. A copy of the charges filed with the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of plaintiff's claim.

13. If relief is not granted, plaintiffs will be irreparably denied rights secured by Title VII of the 1964 Civil Rights Act, as amended.

14. Plaintiff's has no adequate remedy at law to redress the wrongs described above.

THEREFORE, Plaintiff prays as follows: (Check appropriate letter(s))

- A. ☒ That all fees, cost or security attendant to this litigation be hereby waived.
- B. ☒ That the Court appoint legal counsel.
- C. ☒ That the Court grant such relief as may be appropriate, including injunctive orders, damages, cost and attorney's fees.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 3-30-2006

Maqueline D. Berry
(Signature of Plaintiff)

(Signature of additional Plaintiff)

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC
170-2005-00401**DELAWARE DEPARTMENT OF LABOR (DDOL)**

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Ms. Jacqueline D. Berry

Home Phone No. (Incl Area Code)

(302) 697-9120

Date of Birth

Street Address

City, State and ZIP Code

20 Hickory Lane Dover, DE 19904

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

DEL. DIVISION OF CHILD SUPPORT

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(302)326-6024

Street Address

City, State and ZIP Code

P. O. Box 904, New Castle, DE 19720

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☐ AGE ☒ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

03-01-2004**11-16-2004**☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

In or about August, 2000 I was hired by Respondent as a Child Support Specialist I. During my employment with Respondent I always received good performance reviews and no disciplinary actions.

Recently, I had surgery for carpal tunnel syndrome in both hands and also a hysterectomy for prolonged bleeding. I was out of work since June 2004. Respondent denied me a reasonable accommodation for my disability and then discharged me from my position for not returning to work in September 2004. My doctor released me to return to work on November 8. Respondent then told me that I could not return unless I had no restrictions. Thereafter, I went to the Human Resources Department to report these discriminatory actions. Subsequently, Respondent retaliated against me in the following manner (but not limited to): 1. Issuing me an unfavorable performance evaluation. 2. Denying me a transfer to another department to accommodate my disability. 3. Denial to a ladder increase. To the best of my knowledge, other non-Black co-workers (Deborah Flora and Beth Arnold), have been treated better than

4. HASSMENT DUE TO USING FMLA LEAVE. (WHS) JB

I believe that I have been discriminated against because of my race (Black), retaliation, and disability, in violation of Title VII of the Civil Rights Act of 1964 and the Americans With Disability Act of 1990 (ADA) in that Respondent subjected me with the above mentioned.

I was the charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Jan 12, 2005

Charging Party Signature

EEOC Form 161, (10/96)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Jacqueline Berry
5018 Oak Pasture Lane
Charlotte, NC 28269

From: Equal Employment Opportunity Commission
Philadelphia District Office
The Bourse
21 S. Fifth Street, Suite 400
Philadelphia, PA 19106-2515

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.	EEOC Representative	Telephone No.
170-2005-00401	Legal Unit	(215) 440-2828

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ We cannot investigate your charge because it was not filed within the time limit required by law.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state) _____

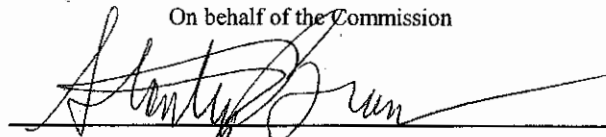
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission


Marie M. Tomasso, District Director

December 28, 2005

(Date Mailed)

Enclosure(s)

cc: DE Department of Child Support
Stephen Lyon, Labor Relations Specialist (For Respondent)